

**U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES OFFICE**

Instructions for Posting a Third-party Surety Appearance Bond

The United States Attorney's Office is required to approve appearance bonds **before** posting. (See Local Rules Governing Duties of Magistrate Judges Rule 2.19) To obtain approval, the surety must show equity in the property equal to or greater than the amount of the bond.

The following items **must** be presented to an Assistant United States Attorney (AUSA) located on the 12th floor of this Courthouse to secure approval. **ONLY** when all of the following items are completed, will the AUSA consider the justification you are submitting. For assistance in obtaining the necessary documents or preparing the Deed of Trust, contact the *defendant's attorney*.

1. Proof of the Value of Real Property

First, you must determine the value of the real property involved. One way to determine the most recent value of the property is to obtain the most recent Tax Assessment Records from the Registrar-Recorder/County Clerk's Office, which, in Los Angeles County, is located at 12400 East Imperial Highway, Norwalk, California 90650, telephone number (213) 974-2111. Assessed value may be substantially lower than market value because, in many cases, the assessed value has been rolled back to the 1975 market value. The U. S. Attorney **will not** make allowances for the roll back but will consider the assessed value to be the current market value. Alternatively, you can present to the AUSA a *signed written appraisal* of the current market value of the property. Any real estate broker can furnish such appraisal, but it must include the basis upon which the appraisal is made, e.g., comparable sales in the area. Be sure to provide the AUSA with the name and telephone number of the qualified appraiser for verification.

2. Determine the Amount of Equity You Have in the Property

Next, you must determine if you have enough equity in the property to satisfy the bond. You can determine the equity in your property by subtracting the total amount owed on trust deeds and other encumbrances from the present value of the property. **Important:** If the equity in the property is not equal to or greater than the amount of the bond, do not waste your time and money by completing the remaining steps because the AUSA will not accept the justification of the property. If you have any questions regarding the sufficiency of your equity, consult the *defendant's attorney BEFORE* deeding the property to the Clerk of the U.S. District Court.

3. Deed the Property to the Clerk of the U.S. District Court

When you have determined that the equity in the real property is equal to or greater than the amount of the bond, you, as surety, should prepare a Deed of Trust naming the Clerk of the United States District Court as *the Beneficiary ONLY*. Use the Short Form Deed of Trust and Assignment of Rents which is available from the Criminal Section of the Clerk's Office. The deed must contain the wording, "Posted on behalf of defendant(s) _____ in Case No. _____ which includes an obligation by said trustor(s) surety(ies) in the amount of \$ _____." The trustee on the Deed of Trust **cannot** be the Clerk of the U.S. District Court, *but must be a third-party*, such as a title company or trust department of a bank.

Important: As a trustor, it is your responsibility to select a trustee. The name and mailing address of the trustee must appear on the deed. One of the trustee's functions is to prepare and execute the documents necessary to complete the reconveyance of the property once the conditions of the bond have been satisfied. To insure that there are no problems with the reconveyance, it is important that you verify that the trustee you have selected is willing to act as trustee. It is not sufficient to simply name the current mortgage holder on the property to act as trustee.

Attached is a properly completed sample Short Form Deed of Trust. After you have completed your Deed of Trust, you must bring it to the Criminal Section for review **prior** to having it recorded in the appropriate County Recorder's Office.

4. Record the Deed of Trust in the Appropriate County Recorder's Office

After completing a deed of trust naming the Clerk of the U.S. District Court as beneficiary, record the deed in the appropriate County Recorder's Office. For example, if the property is located in Ventura, record the deed in the Ventura County Recorder's Office. *The certified copy showing the recordation of the Deed must be shown to the AUSA.* The recorded Deed of Trust will then be filed with the Clerk's Office.

5. Obtain a List of All Encumbrances and/or Liens Against the Property

a. *After* recording the Deed of Trust with the appropriate County Recorder's Office, you must obtain a Lot Book Report. *The Lot Book Report must be dated on or after the date on which you recorded the Deed of Trust.* The Lot Book Report must list all encumbrances on the property, including trust deeds, loans, county mortgages, bail bonds *and homesteads*. The Lot Book Report should not be confused with the more elaborate and more expensive Title Report.

b. *If the property is homestead*, the homestead protects \$50,000 in equity or \$75,000 if the homesteader or spouse is a member of the family unit and at least one member of the family unit holds no interest in the homestead or whose only interest is community property, or \$100,000 if the homesteader or spouse is one of the following: (a) 65 years or older; (b) physically or mentally handicapped; or © 55 years or older with a gross annual income of not more than \$15,000, or, if married, the gross annual income, including that of the spouse, is not more than \$20,000 (California Code of Civil Procedure Section 704.730). The appropriate amount must be deducted from the equity in the property. However, if the Deed of Trust securing the bond is signed by *both* husband and wife (if community property) or by the sole owner (if separate property of a married person or belonging to an unmarried person), the Deed of Trust has priority over the homestead and the amount of homestead *need not be deducted* from the equity in the property (California Code of Civil Procedure Section 703.010).

6. Proof of Balance Owing On Any and All Trust Deeds or Encumbrances on Property

You must also show the AUSA proof of the balance owing on trust deeds and encumbrances. This requirement may be satisfied by a letter from the holder of the existing deed of trust or encumbrance providing the current loan balance, or alternatively, a current record of payment of the trust deed or encumbrance.

7. Affidavit of Surety(ies) (Property)

Each surety must execute an Affidavit of Surety(ies) (Property) court form, CR-3. The form is available at the Criminal Section of the Clerk's Office, Room G-8. If both husband and wife are sureties, each must execute a separate form. *The form(s) must be presented to the AUSA to be approved and then filed at the Criminal Section of the Clerk's Office along with the supporting documentation.*

Clerk, U.S. District Court
Central District of California